

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

MICHAEL JAMES HENDERSON,

Plaintiff,

v.

CIVIL ACTION NO. 3:20-0612

PAUL DIAMOND, et al.,

Defendant.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the Court grant Defendant Mankin's Motion to Dismiss (ECF No. 29), grant Plaintiff's Motion to Amend (ECF No. 53) and Defendants Pauley, Davis, Albright, Reid, Irving, Mays, and Jarvis' Motion to Dismiss (ECF No. 59), deny as moot Defendants Davis, Albright, Reed, and Pauley's Motion to Dismiss for Failure to Serve (ECF No. 43), and refer the matter back to the Magistrate Judge for further proceedings as to the remaining Defendants (Defendants Diamond, Akers, Brewer, Fleming, Aldrige, Moore, and Littlejohn). No objections to the Magistrate Judge's findings and recommendation have been filed.

Accordingly, the Court accepts and incorporates herein the findings and recommendations of the Magistrate Judge and, consistent with the findings and recommendation, **GRANTS** Defendant Mankin's Motion to Dismiss (ECF No. 29), **GRANTS** Plaintiff's Motion to Amend

(ECF No. 53) and Defendants Pauley, Davis, Albright, Reid, Irving, Mays, and Jarvis' Motion to Dismiss (ECF No. 59), **DENIES as moot** Defendants Davis, Albright, Reed, and Pauley's Motion to Dismiss for Failure to Serve (ECF No. 43). This matter will remain referred to the Magistrate Judge for further proceedings as to the remaining Defendants (Defendants Diamond, Akers, Brewer, Fleming, Aldrige, Moore, and Littlejohn).

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: July 1, 2021

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE